IN THE HIGH COURT OF SIKKIM AT GANGTOK
(CIVIL JURISDICTION)

Writ Petition (C) No. 10 of 2007

Shri Adup Tshering Bhutia,
Inspector of Police,
Sikkim Vigilance Police,
Government of Sikkim,
Gangtok.

...Petitioner

-***VERSUS***-

1. The State of Sikkim
   Through Chief Secretary,
   Tashiling Secretariat Building,
   Government of Sikkim,
   Gangtok.

2. The Director General of Police,
   Sikkim Police Department,
   Police Headquarters,
   Government of Sikkim,
   Gangtok.

3. Additional Secretary,
   Sikkim Police Head Quarter,
   Government of Sikkim,
   Gangtok.

4. Secretary,
   Department of Personnel, Administrative Reforms & Training,
   Government of Sikkim,
   Gangtok.

...Respondents

For the petitioner: Ms. (Dr.) Doma T. Bhutia, Advocate.

For the respondents: Mr. J.B. Pradhan, Additional Advocate General, Sikkim with Mr. S.K. Chettri, Assistant Government Advocate for the official Respondents.

Date of Hearing : 27.08.2009

Date of Judgment : 27.08.2009

PRESENT: HON'BLE THE CHIEF JUSTICE
MR. JUSTICE AFTAB H. SAIKIA
HON'BLE MR. JUSTICE A.P. SUBBA, JUDGE

JUDGMENT AND ORDER (ORAL)

Saikia, CJ

Heard Ms. (Dr.) Doma T. Bhutia, learned Counsel for the petitioner as well as Mr. J.B. Pradhan, learned Additional Advocate General, Sikkim with Mr. S.K. Chettri, learned State Counsel appearing for all the official respondents.

2. The petitioner, being an employee of the Sikkim Police, presently working in the capacity of the Inspector of Police in the State Vigilance Department within the Police Department, Government of Sikkim, alleging non-consideration of his seniority, has challenged the inter-se-seniority list of Police Inspectors in the Police Department published on 14.11.2006 by initiating the instant writ proceeding and has sought the reliefs by making the following prayers:

> " a) A writ in the nature of Mandamus or any other writ, order or direction for quashing or cancelling the Impugned Notification 01/PHQ dated the 14/11/06, along with the Annexures of Inter-se seniority list of the promotees, thereby issuing another fresh rectified notification correctly placing the

Petitioner in confirmed capacity of Police Inspector in seniority list as per the due process of law.

b) A writ of mandamus or any other appropriate writ, order or direction in the nature thereof directing the Respondents No. 1 & 2 to issue fresh notification and prepare a fresh list of seniority for the promotees thereby duly incorporating the name of the Petitioner in confirmed capacity of Police Inspector and to place in senior position according to the established rules.

c) Issue of writ of mandamus or any other appropriate writ, order or direction in the nature thereof directing the Respondents No. 1 & 2 to establish a transparent and fair system while maintaining fresh confirmed seniority list of Police Inspectors according to the procedure established by law.

d) And pass such other order or orders as this Hon'ble Court may deem fit and proper in the fact and circumstances of the case."

3. Refuting the allegations and contentions made in this writ petition, the State-respondents have contested the case by filing their respective responses to which the petitioner also has filed his rejoinder.

4. During the pendency of this writ petition at the hearing stage, the official respondents have filed a Civil Miscellaneous Application being registered as CM Appl. No. 48 of 2009, wherein a Notification dated 24.07.2009 has been annexed which reads as under:

"POLICE HEADQUARTERS
GANGTOK : SIKKIM

No. 01/PHQ/09 Dated: 24.07.2009

NOTIFICATION

Whereas, Notification No. 01/PHQ dated 14/11/2006 which notified the seniority list of Police Inspectors was only a combined list as per Corrigendum vide Memo No. 296/PHQ dated 19/5/2007;

and whereas, the Notification was only a combined list, the process of preparation of seniority list of Police Inspectors being an ongoing process and the Department proposes to issue provisional Seniority List of Police Inspectors in due course affording opportunities to all the members of the cadre to file their claims and objections. The final seniority list will thereafter, be published in accordance with the relevant rules.

Therefore, in pursuance of the decision taken in the meeting held on 9th July, 2009 in the chamber of the Chief Secretary, Govt. of Sikkim, aforementioned combined list of Police Inspectors notified vide Notification No. 01/PHQ dated 14/11/2006 stands withdrawn with immediate effect.

Sd/-
(O.H. Subba, IPS)
Inspector General of Police
Police Headquarters
Gangtok.
Memo No. 01-03/PHQ/09 Dated: 24/07/2009 "

5. A plain reading of the said Notification would candidly indicate that all the prayers so made by the petitioner as quoted above have been taken care of by the respondents. It is noted that in the first instance, the Government has withdrawn the impugned Notification dated 14.11.2006 the quashment of which has been

sought in the writ petition itself as indicated in the prayer No. (a). As regards the prayers No. (b) and (c), the Government, as has been emerged from the above Notification itself, proposes to issue a provisional Seniority List of Police Inspectors in due course affording opportunities to all the members of the cadre to file their claims and objections and to publish the final seniority list thereafter in accordance with the relevant rules.

6. Meanwhile, the petitioner has also filed an application for seeking amendment as reflected in Civil Miscellaneous Application No. 47 of 2009, wherein he has made another prayer which runs as follows:

> "d) The applicant further craves leave (b) be deleted and substituted and amended by the following prayer (b) as *"the seniority of the petitioner is determine/ considered from the date of his promotion i.e. from the year 1995 to the post of Inspector of Police"*. "

7. Having considered the above proposed amendment in the prayer, we are of the view that since the Government itself has withdrawn the impugned Notification dated 14.11.2006 and proposed to publish a final seniority list after affording opportunities to all the members of the cadre to file their respective claims and objections, the proposed amendment seeking inclusion of the abovequoted prayer appears to be pre-matured.

8. On due consideration of the facts and circumstances of the case in its entirety including the Notification dated 24.07.2009

annexed as Annexure A-1 in the CM Appl. No. 48 of 2009 and also upon hearing the learned Counsel for the parties, we are of the considered opinion that this writ petition has been rendered as infructuous.

9. Needless to say that the petitioner, if aggrieved by publication of final seniority list, shall be at liberty to approach this Court for redressal of his grievances.

10. Accordingly, this writ petition stands dismissed as being infructuous.

Judge. Chief Justice.

rsr/jks